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In re Application of  
EVANS  
Application No. 10/651,228  
Filed: August 29, 2003  
Attorney Docket No. 0316

**OFFICE OF PETITIONS**

DECISION  
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Election of Species Requirement mailed November 30, 2004 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 31, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election and an amendment; (2) the petition fee of \$750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the election of species requirement of November 30, 2004 is accepted as having been unintentionally delayed.

While the reply to the election of species requirement appears *bona fide*, please note that the numbering of the claims in the amendment filed on June 13, 2005 with the petition does not comply with 37 CFR 1.121 and the procedures set forth in MPEP 714.II.C. For example in the amendment, claim 3, labeled "original," is actually a combination of original claims 3 and 4, and the renumbering of claims 10-29 to claims 12-31 on pages 4-8 does not correspond to the original claim numbering. Also, claims 1-33 were originally claimed, so any new claims should commence with claim 34 and not claim 32. Corrections should be made to the amendment to comply with 37 CFR 1.121.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 3673.

  
Frances Hicks

Petitions Examiner  
Office of Petitions